



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 10 2008

Mary Jennifer Adams
P.O. Box 414
Westminster, SC 29693

RE: MUR 5971

Dear Ms. Adams:

On February 11, 2008, the Federal Election Commission (the "Commission") notified you of a complaint alleging that you violated the Federal Election Campaign Act of 1971, as amended (the "Act") and provided you with a copy of the complaint.

After reviewing the allegations contained in the complaint and publicly available information, the Commission, on August 19, 2008, found reason to believe that you knowingly and willfully violated 2 U.S.C. §§ 432(b) and (c), 434(b), and 439a, provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.



29044231516

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Statement of Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. We look forward to your response.

On behalf of the Commission,



Donald F. McGahn II
Chairman

Enclosures
Designation of Counsel Form
Factual and Legal Analysis

29044231517

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3
4 **RESPONDENT: Mary Jennifer Adams**

MUR: 5971

5
6
7 **I. INTRODUCTION**

8 This matter was generated by a complaint filed with the Federal Election Commission by
9 Lindsey Graham for Senate and Kevin Hall, in his official capacity as treasurer, (the
10 "Committee"), and based on information ascertained by the Federal Election Commission ("the
11 Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C.
12 § 437g(a)(1) and (2). The Committee filed its complaint after it discovered that its former
13 Assistant Treasurer, Mary Jennifer Adams, issued unauthorized disbursements to herself and to
14 her personal creditors using Committee funds totaling approximately \$280,688.84 and made
15 unauthorized deposits in the amount of \$18,172.46.¹ Adams' embezzlement scheme took place
16 over the course of three years and resulted in violations of the Federal Election Campaign Act of
17 1971, as amended ("the Act").

18 A few weeks after the Committee discovered the apparent embezzlement, it notified the
19 Commission's Reports Analysis Division ("RAD") and informed the South Carolina Law
20 Enforcement Division ("SLED"). After the Committee filed amended reports with the
21 Commission reflecting the unauthorized transactions, the Committee filed a complaint against
22 Adams.

23 Based on the available information, including limited information about the ongoing

¹ Adams also embezzled \$9,669.56 in funds from Senator Graham's former campaign committee for the U.S. House of Representatives, the Committee to Elect Lindsey Graham.

1 criminal prosecution of Adams, the Commission finds reason to believe that Mary Jennifer
2 Adams knowingly and willfully violated 2 U.S.C. §§ 432(b) and (c), 434(b), and 439a by
3 commingling Committee funds with her personal funds, failing to properly track all
4 disbursements, failing to accurately report all receipts and disbursements in the Committee's
5 disclosure reports filed with the Commission, and by converting Committee funds to her own
6 personal use.

7 **II. FACTUAL SUMMARY**

8 Between January 23, 2002 and July 25, 2005, Mary Jennifer Adams embezzled funds
9 from Lindsey Graham's principal campaign committees for the U.S. House of Representatives
10 and the U.S. Senate. Adams initially joined Graham's congressional campaign, the Committee
11 to Elect Lindsey Graham ("CELG"), during the 1994 election cycle to assist in graphic design
12 and advertising, but later assumed disclosure and financial duties after the departure of the
13 CELG's bookkeeper. In 2002, Adams transitioned the same duties to Graham's U.S. Senate
14 campaign committee (i.e., the Committee), served as Assistant Treasurer for the Committee, and
15 also acquired additional office manager duties under the title of "Campaign Administrator." In
16 2003, Adams began to work part-time for the Committee and part-time as a Deputy Press
17 Secretary for Senator Graham's Senate office, ceasing her work for the Committee in November
18 2006. Adams was terminated from her position with the Senate office on June 19, 2007, upon
19 discovery of the embezzlement.

20 During the relevant time period, Adams' duties as Assistant Treasurer and Campaign
21 Administrator for the Committee included the following: receiving and depositing all
22 contributions, receiving and retaining bank statements, keeping records of campaign receipts and
23 disbursements, bookkeeping, making disbursements, preparing, signing, and filing reports with

29044231519

1 the Commission, preparing "thank you" letters to contributors and drafting newspaper
2 advertisements for the Committee, along with other miscellaneous campaign related activities.

3 In January 2005, the Committee relocated its main office from Seneca, South Carolina to
4 Columbia, South Carolina, reorganized its staff, and named a new treasurer (Kevin Hall) and
5 assistant treasurer (Scott Farmer).² During the transition, Hall and Farmer sought to develop a
6 thorough understanding of the Committee's finances and decided to review the Committee's
7 financial records. It also became necessary for them to review bank statements in order to
8 properly respond to a RAD Request For Additional Information dated September 19, 2006.³
9 Although Adams deliberately frustrated their efforts by preventing complete access to the
10 Committee's financial records, their financial review eventually led to the discovery of Adams'
11 embezzlement.

12 Initially, the new officers relied on Adams to provide them with copies of the
13 Committee's financial records. It appears that Adams would typically take several weeks to
14 respond to such requests, and would provide only partial records, along with a variety of excuses
15 for her incomplete responses.⁴ The Committee indicated that those records that Adams did
16 provide were in such disarray that she had to travel to the Committee's Columbia office a
17 number of times to help Hall and Farmer sort through them.

² The Committee explains that its reorganization was "prompted by the complexities of operating a state wide senatorial campaign" and that therefore, it directed its efforts to "consolidate all financial activities in Columbia." Prior to 2005, Scott Farmer was the Committee's Campaign Manager and was based out of Columbia. During its reorganization, the Committee also replaced treasurer Neil Byerley, who was located in Seneca, with a treasurer based out of Columbia. It appears that Mr. Byerley, a man in his seventies, also expressed an interest in taking a break from his treasurer duties at that time.

³ The Committee advised RAD of its ongoing financial review in October 2006, indicated that it planned to amend its reports where appropriate, and provided periodic updates on its progress. However, as discussed *infra*, it was not until later in the review process that clear evidence of wrongdoing was uncovered.

⁴ For example, after various requests for documents, Adams stated that she needed more time to locate some of the records and that some of the records had been destroyed by a minor flood in the Seneca office in April 2005.

28044231520

1 Even after the Committee requested copies of account records from the bank, Adams was
2 able to hinder the process because the records were sent to her in the Seneca office and she
3 would frequently claim that the records had not yet arrived. At the time, the officers did not
4 suspect any wrongdoing in connection with Adams' delayed provision of the records as she
5 always included enough materials to make it appear that she was providing the requested
6 information.⁵ Rather, Hall and Farmer started to believe that Adams had become sloppy in her
7 work.

8 It was not until the end of 2006, after Hall and Farmer discovered a number of multiple
9 surplus salary payments and bonuses for Adams that they began to suspect possible wrongdoing.
10 In November 2006, they confronted Adams about the extra salary payments and in response,
11 Adams claimed that she had cleared the payments with Senator Graham. Senator Graham denies
12 ever having such a discussion with Adams or ever having authorized these extra payments. As a
13 result, in December 2006, the Committee contacted its bank to request that all correspondence be
14 sent directly to the Columbia office. The review process still remained slow, however, because
15 some of the Committee's records pre-dated the bank's electronic system and had to be obtained
16 from microfiche.

17 As it received records directly from the bank, the Committee engaged in an item by item
18 review of its receipts and disbursements and slowly came to discover additional discrepancies.
19 For instance, in addition to multiple unauthorized salary payments and bonuses to Adams, there
20 were disbursements logged as payments to vendors that did not exist. One such payment was a
21 November 1, 2002 payment of \$11,250 that appeared to be payable to a direct mail vendor. The

⁵ Kevin Hall, Scott Farmer and part time staff member Denise Bauld explained that they had no reason to suspect any wrongdoing by Adams. They stated that during their time working together, they developed a close friendship with Adams and came to trust her.

29044251521

1 cancelled check, however, was made payable to, and endorsed by, Adams. There were also a
2 number of payments falsely entered in the Committee's internal database and on the
3 Committee's disclosure reports as payments to the Internal Revenue Service that were actually
4 disbursements made to Adams.

5 In addition to the fraudulent disbursements, the Committee also discovered that Adams
6 had obtained a Visa credit card in Senator Graham's name without his knowledge. It appears
7 that in 2005 Adams forged Senator Graham's signature on a number of credit card advance
8 checks from that card and disbursed the funds to herself and her personal creditors. After these
9 discoveries, and after consultation with Senator Graham, Adams was terminated from her
10 position at the Senate office on June 19, 2007. The Committee notified RAD of the
11 misappropriation on June 20, 2007 and also reported Adams' conduct to SLED via a letter dated
12 June 26, 2007.

13 At the time the Committee discovered Adams' embezzlement scheme, it was believed
14 that she had misappropriated approximately \$26,000 in Committee funds. However, the
15 Committee's ongoing reconciliation and a SLED subpoena led to the discovery that Adams had
16 actually embezzled \$9,668.56 in funds from CELG from October 2002 through January 2003
17 and over \$200,000 from the Committee from January 2002 through July 2005.⁶ In total, Adams
18 made at least 113 unauthorized disbursements to herself and her creditors and that she altered at
19 least 52 checks and 8 bank statements to disguise her theft.

20 SLED discovered that when the Committee moved its base of operations to Columbia in
21 2005, Adams kept the Seneca Committee bank account open, contrary to explicit instructions to
22 close it. In fact, Adams had indicated to Kevin Hall that the bank account had been closed and

⁶ After discovering Adams' misappropriation, the Committee kept RAD apprised of its ongoing review and of SLED's discovery of additional unauthorized activity.

29047231522

1 provided an altered bank statement to that effect. Adams not only misappropriated the remaining
2 funds from that account for her own personal use, but she also deposited forged checks from
3 Senator Graham's personal bank accounts into that account. Additionally, Adams deposited
4 credit card advance checks into the Committee's Seneca bank account using checks from the
5 credit card that she fraudulently obtained in the Senator's name. In total, Adams deposited
6 approximately \$18,172.46 in unauthorized funds into the Seneca account. SLED's investigation
7 revealed that Adams later disbursed some of those funds to herself and to her personal creditors.

8 The Committee's audit and SLED's investigation also revealed that Adams had
9 concocted an elaborate scheme to avoid detection of her theft. During the initial stages of the
10 Committee's audit, when Adams was still being sent the bank records, she altered copies of the
11 checks written out to her before turning the records over to the Committee treasurer. A folder
12 maintained by Adams contained images of cancelled checks and bank statements that she was in
13 the process of altering. Adams' computer hard disk drive also contained images of original
14 checks used for the fraudulent disbursements and altered versions of those checks. The
15 alteration process was evident in these images – some versions showed the payee name was
16 removed and other versions showed a different payee name had been inserted.

17 On October 2, 2007, the Committee filed amendments to twelve reports from the 2002
18 through 2008 election cycles that disclosed Adams' unauthorized transactions, and filed
19 additional amendments with the Commission on January 26, 2008. Senator Graham informed
20 his supporters about the embezzlement via a press release on October 15, 2007. Adams was
21 arrested on December 14, 2007, and indicted on March 10, 2008 on five counts of Breach of
22 Trust with Fraudulent Intent and one count of Financial Identity Fraud.

20044251525

1 **III. LEGAL ANALYSIS**

2 According to Commission policy, a former treasurer or assistant treasurer may be named
3 as a respondent in his or her personal capacity when it appears that, while serving as a treasurer
4 or assistant treasurer, he or she may have violated obligations imposed by the Act or
5 Commission regulations personally on a treasurer and where, among other situations, the
6 violations were knowing and willful. *See Statement of Policy Regarding Treasurers Subject to*
7 *Enforcement Proceedings*, 70 Fed. Reg. 3 (January 3, 2005); *see, e.g.*, MUR 5610 (Earl Allen
8 Haywood) and MUR 5721 (Lockheed Martin Employees' PAC). Therefore, the Commission
9 may make findings as to Adams in her personal capacity in connection with violations of the Act
10 while performing the duties of the treasurer.

11 As Assistant Treasurer performing treasurer duties, Adams was required to accurately
12 keep an account of and report receipts and disbursements. *See* 2 U.S.C. §§ 432(c); 434(b)(2),
13 (3), (4) and (6); and 11 C.F.R. § 104.3(a)-(b).⁷ Committee treasurers and any other person
14 required to file any report or statement under the Act and the Commission's regulations are also
15 personally responsible for the timely and complete filing of the report or statement and for the
16 accuracy of any information or statement contained in it. 11 C.F.R. § 104.14(d). Adams
17 knowingly and willfully failed to keep an accurate account of all disbursements in order to hide
18 her fraudulent scheme and failed to accurately report certain receipts and disbursements in

⁷ The Act's recordkeeping obligations include keeping an account of the name and address of every person to whom a disbursement is made, together with the date, amount and purpose of the disbursement and keeping a receipt, invoice or cancelled check for disbursements in excess of \$200. 2 U.S.C. § 432(c)(5) and 11 C.F.R. § 102.9(b)(2). Disclosure reports shall include, *inter alia*, the total amount of receipts and disbursements and the name and address of each person to whom an expenditure exceeding \$200 is made together with the date, amount and purpose of the expenditure. *See* 2 U.S.C. § 434(b).

disclosure reports filed with the Commission.⁸

The Act also prohibits the commingling of committee funds with "the personal funds of any individual," including officers of a committee. 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15. The Commission has previously made findings that Respondents violated 2 U.S.C. § 432(b)(3) in matters where individuals misappropriated committee funds by making unauthorized disbursements to themselves or others to pay for personal expenses. *See, e.g.*, MUR 5923 (American Dream PAC); MUR 5721 (Doggett for U.S. Congress). Additionally, the Act prohibits any person from converting contributions to a Federal candidate for personal use. 2 U.S.C. § 439a(b)(1). "Personal use" means any use of funds in a campaign account of a federal candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign duties. 11 C.F.R. § 113.1(g). The term "person" includes individuals and committees. 2 U.S.C. § 431(11).

In this matter, Adams knowingly and willfully wrote checks to herself from Committee accounts without authorization, cashed or deposited the checks into her personal bank account, and issued disbursements to her personal creditors, in violation of 2 U.S.C. §§ 432(b)(3) and 439a. Adams disguised her illegal activity by making false entries into the Committee's internal database and in disclosure reports filed with the Commission, and by manipulating copies of checks and bank statements during the Committee's internal financial review. In a handwritten letter to Senator Graham's Chief of Staff following her termination, Adams essentially admits that she knowingly and willfully embezzled funds from the Committee (*e.g.*, "I have lied,

⁸ To establish a knowing and willful violation, there must be knowledge that one is violating the law. *See FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." *U.S. v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *Id.* at 214-15.

29044231525

1 cheated, stolen, betrayed"). As discussed above, her commingling and personal use
2 violations resulted in recordkeeping and reporting violations of the Act. 2 U.S.C. §§ 432(c) and
3 434(b).
4 Accordingly, Commission finds there is reason to believe that Mary Jennifer Adams
5 knowingly and willfully violated 2 U.S.C. §§ 432(b) and (c), 434(b), and 439a.

29044231526